

REMARKS

The application has been amended as needed so as to place it in condition for disposal at the time of the next Official Action.

In the course of this revision, the previously-filed Abstract of the Disclosure has been deleted and replaced with a new Abstract of the Disclosure which is believed to comply with 37 CFR §1.72(b) and Section 608.01(b) of the Manual of Patent Examining Procedure (MPEP). Specifically, the newly-presented Abstract of the Disclosure does not contain any legal phraseology.

In addition, subject headings have been inserted at the appropriate locations throughout the specification in a manner consistent with the preferred guidelines set forth at 37 CFR §1.77 and Section 601 of the MPEP.

The Official Action had objected to the originally-filed declaration, as it failed to identify the present application by application number and filing date. A new oath or declaration was required.

It is however pointed out that the present declaration was found to be acceptable by the United States Designated Office/Elected Office, as the latter issued a Notification of Acceptance on January 15, 2002. In any event, a careful review of the originally-filed declaration will reveal that it identifies the specification to which it is directed, by

mentioning the invention described and claimed in International Application No. PCT/IB00/00216 filed on February 28, 2000, which is perfectly acceptable for an application entering the national stage in the United States. Accordingly, it is respectfully submitted that the originally-filed declaration is in full compliance with 37 CFR §1.67(a).

Claim 1 was rejected under 35 USC §112, second paragraph, for indefiniteness. The Primary Examiner's well-taken formal criticisms of this claim were borne in mind as points to be corrected when drafting the new claims. Specifically, newly-presented claims 11-20 are believed to set out and circumscribe a particular tubing for the extracorporeal purification of blood, as well as a method of using the tubing, with a reasonable degree of precision and particularity, when read in light of the teachings of the original specification. Accordingly, it is believed that the rejection of claim 1 under 35 USC §112, second paragraph, has been overcome and should not be applied to any of claims 11-20.

Claims 1 and 3-10 were rejected under 35 USC §102(b) as being anticipated by WILLIAMSON, IV et al. 4,888,004.

Reconsideration of the above rejection is respectfully requested for the following reasons.

The present invention relates to a tubing for the extracorporeal purification of blood, which comprises:

an open loop extracorporeal circulation conduit having two portions, a first portion for extracting the blood to be purified, and a second portion for returning the purified blood;

said portions adapted to be connected to purification means;

at least one conduit for connecting at least one of said portions to a source of a substitution solution;

a bubble trap located along said loop;

an evacuation conduit provided with a segment of tubing adapted to be connected to a peristaltic pump for evacuating into a recovery chamber product rejected by said purification means; and

connection means for removably connecting to each other respective ends of said open loop extracorporeal circulation tubing to form a closed loop;

said evacuation conduit comprising, downstream of said segment of tubing, a blood detector, a **connection conduit extending between the downstream end of said segment of tubing and said bubble trap.**

It is respectfully submitted that the above-claimed characteristic features are neither disclosed, nor suggested by WILLIAMSON, IV et al. Indeed, this patented reference fails to disclose or suggest a **connection conduit** extending between the downstream end of the segment of tubing adapted to be connected to a peristaltic pump which is placed along the evacuation

conduit and a bubble trap which is located along the open loop extracorporeal circulation conduit, as is recited in applicant's newly-presented independent claims 11 and 16.

In fact, the patented reference is clearly directed to a device called "enclosure" which contains the collection and return needles of the extracorporeal circulation conduit/loop of a blood processing system. The applied reference describes in detail the enclosure which is part of the extracorporeal blood circulation tubing. The tubing concerning the evacuation of rejected products filtered from the blood is only touched as far as necessary. Thus, WILLIAMSON, IV et al. describes only known features with respect to the evacuation tubing.

In sharp contrast, the present invention introduces the new feature of placing a **dedicated supplementary conduit between the extracorporeal blood circulation tubing and evacuation conduit/tubing.**

Specifically, this so-called connection conduit is connected, on the side of the evacuation conduit, on the downstream end of a segment of tubing adapted to be connected to a pump, and on the side of the extracorporeal blood circulation tubing, on a bubble trap located along that circulation tubing.

As is clearly depicted in Figure 1 of the applied reference, no such connection conduit between the downstream end of the tubing (38, 44) with a corresponding pump (40), on the one side, and an air trap (50) located along the blood circulation

tubing (26, 54), on the other side, is to be found in the device of WILLIAMSON, IV et al. In addition, the text of the patented reference fails to disclose or suggest any such supplementary connection conduit. If the reference discloses tubing connected to the pumps and to the bubble trap throughout the tubing network, as is advanced in the Official Action, it only discloses the conventional tubing, that is inside the extracorporal blood circulation tubing or the evacuation conduit, but not the particular detailed connection conduit described above, which is situated between these two.

It should be pointed out that the WILLIAMSON, IV et al. reference is mentioned in the originally-filed specification on page 3, line 20 to page 4, line 11, where it is specified that this patented device does not comprise any such connection conduit.

It is well settled that anticipation requires that a prior art reference disclose every claim element as set forth in the claim (see *Orthokinetics Inc. vs. Safety Travel Chairs Inc.*, 1 USPQ2d 1081 (Fed. Cir. 1986)). Similarly, absence of a claim element from a prior art reference negates anticipation (see *Atlas Powder Company vs. E.I. Du Pont De Nemours & Company*, 224 USPQ 409 (Fed. Cir. 1984)).

In the instant case, since the WILLIAMSON, IV et al. reference fails to disclose or suggest the herein-claimed connection conduit between the extracorporal blood circulation

tubing and the evacuation conduit tubing recited in applicant's independent claims, it follows that these claims cannot be anticipated by this patented reference.

The Primary Examiner's indication of allowability with respect to the subject matter formerly recited in claim 2 is sincerely appreciated. However, in view of the present of the present amendment and the foregoing remarks, therefore, it is believed that newly-presented claims 11-20 structurally and patentably distinguish from the WILLIAMSON, IV et al. reference.

Reconsideration and allowance on the basis of claims 11-20 are accordingly earnestly solicited.

In the event that there are any questions relating to this amendment or to the application in general, it would be appreciated if the Examiner would telephone the undersigned attorney concerning such questions so that the prosecution of this application may be expedited.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

Benoit Castel

---

Benoit Castel, Reg. No. 35,041  
745 South 23<sup>rd</sup> Street  
Arlington, VA 22202  
Telephone (703) 521-2297  
Telefax (703) 685-0573  
(703) 979-4709

BC/lk

**APPENDIX:**

The Appendix includes the following item:

- a new Abstract of the Disclosure